



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1996

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR96-2144

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101770.

The City of McAllen (the "city") received two requests from the same requestor for information relating to a particular case. Specifically, the requested information consisted of "a certified copy of the McAllen Police Report, including all photographs, for Case No. 95-44279, date of incident August 4, 1995." You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth calendar day after the date of receiving the written request. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302.

The city received the initial written request for information on August 1, 1996, and a subsequent request for the same information dated August 6, 1996. You did not request a decision from this office until August 20, 1996, more than ten days after you received the written requests.¹ Therefore, we conclude that the city failed to meet its ten-day deadline for requesting an opinion from this office. Because the city did not request an

¹ Although your letter to this office seeking a ruling was dated August 11, 1996, the postmark on the envelope indicates that the letter was sent on August 20, 1996.

attorney general decision within the deadline provided by section 552.301(a), the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock*, 797 S.W.2d 379; *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.—Houston [1st Dist.] 1984, *no writ*); Open Records Decision Nos. 319 (1982), 195 (1978).

This presumption can be overcome only by a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public. *See, e.g.*, Open Records Decision Nos. 195 (1978), 150 (1977). Normally, a compelling interest is demonstrated when some other source of law makes the information confidential or when third party interests are at stake. Open Records Decision No. 150 (1977) at 2. Therefore, in the absence of a compelling interest, you must release the requested information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Sam Haddad".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 101770

Enclosure: Submitted information

cc: Ms. Belinda Jackson
E. Thomas Bishop, P.C.
1600 Premier Place
5910 North Central Expressway
Dallas, Texas 75206
(w/o enclosure)